

**CALENDAR ITEM  
C55**

A	12/16/02
	W9777.106
S	Prabhu
	Hermanson
	Meier

**CONSIDERATION OF REGULATIONS TO IMPLEMENT A PHYSICAL  
SECURITY PROGRAM AT MARINE OIL TERMINALS IN THE STATE OF  
CALIFORNIA**

**PROPOSAL:**

The Commission's Staff proposes the adoption of regulations that would implement a physical security program at all marine oil terminals within the state.

The proposed regulations require each terminal operator to designate a Marine Terminal Security Officer who would be responsible for conducting a security survey at each facility and for implementing a security plan based on the survey. The security program required by these regulations provides for safety and security of people, property and equipment by deterring and preventing the carriage of weapons, incendiaries or explosives into the terminal. This is accomplished by controlling access of persons and vehicles onto terminal areas. Lastly, these regulations provide for training of terminal personnel in all aspects of the facility's security plan.

**BACKGROUND**

In light of the tragic terrorist events of September 11, 2001, future terrorist activity has the real potential for causing catastrophic damage to public health and safety and the environment. The people of California must immediately prepare for and be ready to deter execution of such threats. The need for urgency of action in this direction is reflected in the Governor's Executive Order D-47-01, dated October 10, 2001. The order creates a State Strategic Committee on Terrorism and contains specific requirements for evaluating the potential threat of terrorist attack, for reviewing California's current state of readiness to prevent and respond to a potential attack, and for establishing and prioritizing recommendations for prevention and response.

CALENDAR ITEM NO. **C55** (CONT'D)

The State of California has 77 marine oil terminals falling under the jurisdiction of the Commission. Each of these facilities stores and is capable of transferring oil and liquid hydrocarbon products to and from tank vessels and barges. On average, 1.8 million barrels of oil or product are transferred at California's marine oil terminals every day. These facilities are located along the coast of California from Eureka in the North to San Diego near the Mexican border. The majority of these terminals are located in the ports and harbors of the state, while a few are located in the Carquinez Strait in the San Francisco Bay area, in the Santa Barbara Channel and in Humboldt Bay.

The major hazards at a marine oil terminal include fire and explosion and the potential for large quantities of oil to be spilled into the waters of the State. These facilities and their associated refineries are at considerable risk from potential terrorist threats. Presently, it is fairly easy for unauthorized intruders to infiltrate surreptitiously into the confines of a terminal and cause inestimable damage either through fire and explosion or through the release of oil into the marine environment. Fires and explosions can be generated by the use of incendiaries, explosives or firearms. Releases of large quantities of oil into the marine environment can easily be accomplished by opening a few strategic valves and allowing oil to flow. All marine oil terminals have pipeline manifolds that terminate at the dock face. Manifolds are connected by pipelines to oil storage tanks. In some cases, the tank storage facilities (tank farms) are located several miles away from the dock. The flow of oil between the dock and the storage tanks is controlled and regulated by strategically situated valves. Any of these components is vulnerable to intentional acts with great destructive consequence.

Additional risks of fire, explosion and release of oil may be realized by encroachment from the waterfront side of the dock. A recent example of such terrorist act is the bombing of "USS COLE" from a small boat in the port of Aden, Yemen, on 12 October 2000. The attack on the "USS COLE" killed 17 sailors, wounded more than twice that number and occasioned considerable damage to the ship's structure. A similar attack on a tanker or barge carrying volatile hydrocarbon liquids can cause an immensely greater degree of devastation than the attack on the "USS COLE."

More recently, the September 6, 2002 terrorist attack on the French supertanker "LIMBURG" off the coast of Yemen made it clear to all that the need to enhance maritime security is vital. This incident, which had strong similarities with the attack on the "USS COLE", resulted in the death of one crew member and the release of 90,000 barrels of oil into the ocean. The attack from a small boat also caused an intense fire on the

CALENDAR ITEM NO. **C55** (CONT'D)

supertanker. The United States Congress, in passing of the Maritime Transportation Security Act of 2002, has acknowledged the attack on the "LIMBURG" as an act of terror.

The consequences of an act of sabotage on a tanker or barge and the potential for causing immeasurable damage to public health and safety and the environment can best be illustrated by the fire and explosion aboard the tanker SS "SANSINENA" in the Port of Los Angeles, California, on December 17, 1976. The "SANSINENA," a fairly small tanker by today's standards, had discharged most of its cargo of crude oil. Its empty tanks, though, were full of explosive vapors. A spark caused a tremendous explosion that broke the ship in two, virtually destroyed the marine oil terminal and did significant damage to the port. An explosion on a modern tanker more than twice the size of the "SANSINENA" with tanks full of volatile oil or hydrocarbon products could have greater consequences.

Apart from the physical and environmental damage that can be caused by the events described above, there is also the potential for an adverse economic impact. Any one of the incidents described above could cause the closure of a port and the shutdown all its facilities. The ports of California are international gateways to the US and they cater to a high volume of commerce and trade. This activity generates large revenues to the coastal cities and the state and also provides gainful employment to a large sector of the population. A terrorist act resulting in the closure of Californian ports or port facilities can have far-reaching, national and international adverse economic impacts.

Recent events are compelling evidence that these threats require urgent response. While some terminal operators have taken action to enhance security, the proposed regulations would ensure that all such operator implement security programs immediately and effectively.

As an initial measure to enhance physical security arrangements and create a high level of security awareness at marine terminals, the Commission adopted emergency regulations under 2 CCR Section 2351. The emergency regulations became effective on March 7, 2002. Since that time, terminal operators have undertaken the requirements of the regulations and implemented substantial improvements in their physical security arrangements.

Given the above circumstances and considerations, Commission staff believes that urgent and immediate action is necessary to ensure that all marine oil terminals in California are in a state of organized readiness to deter terrorist activity.

CALENDAR ITEM NO. **C55** (CONT'D)

**STATUTORY AND OTHER REGULATIONS:**

A: Public Resources Code §§8750 through 8758

**PERMIT STREAMLINING ACT DEADLINE:**

N/A

**OTHER PERTINENT INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 CCR §10561), the Commission Staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA guidelines.

Authority: P.R.C. §21084 and 14 CCR §15300.

2. The proposed regulations do not affect small businesses as defined in Gov. Code §11342, sub.(h), because all affected businesses are transportation and warehousing businesses having annual gross receipts of more than \$1,500,000, as specified under Gov. Code §11342, sub.(h)(2)(I)(vii).

**EXHIBITS:**

A: Text of the proposed regulations.

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, §15061, BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE §21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, §15378.
2. FIND THAT THE REGULATIONS ARE NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT BY ENSURING THAT SECURITY PRECAUTIONS ARE TAKEN TO PREVENT TERRORIST ACTIVITIES AT MARINE OIL TERMINALS, WHERE SUCH ACTIVITIES COULD CAUSE OIL SPILLS, FIRES OR EXPLOSIONS AND RESULT IN DIRECT AND SUBSTANTIAL HARM TO PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT.

CALENDAR ITEM NO. **C55** (CONT'D)

3. FIND THAT THE REGULATIONS WILL NOT AFFECT SMALL BUSINESSES AS DEFINED IN GOVERNMENT CODE §11342(h), BECAUSE ALL AFFECTED BUSINESSES ARE TRANSPORTATION AND WAREHOUSING BUSINESSES HAVING ANNUAL GROSS RECEIPTS OF MORE THAT \$1,500,000, AS SPECIFIED UNDER GOVERNMENT CODE §(h)(2)(l)(vii).
4. FIND THAT THE REGULATIONS WILL NOT HAVE A SIGNIFICANT IMPACT ON THE CREATION OR ELIMINATION OF JOBS OF NEW OR EXISTING BUSINESSES WITHIN CALIFORNIA, NOR WILL THEY HAVE AN ADVERSE ECONOMIC IMPACT ON BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESS IN OTHER STATES.
5. FIND THAT NO ALTERNATIVE WOULD BE MORE EFFECTIVE IN CARRYING OUT THE PURPOSE FOR WHICH THE REGULATIONS ARE PROPOSED OR WOULD BE AS EFFECTIVE AND BURDENSOME TO AFFECTED PRIVATE PERSONS THAN THE PROPOSED REGULATIONS.
6. ADOPT THE PROPOSED REGULATIONS, WHICH WOULD ADD SECTIONS 2430 THROUGH 2445 TO TITLE 2, DIVISION 3, CHAPTER 1, ARTICLE 5.1, OF THE CALIFORNIA CODE OF REGULATIONS, SUBSTANTIALLY IN THE FORM OF THOSE SET FORTH IN EXHIBIT "A".
7. AUTHORIZE THE COMMISSION STAFF TO MAKE MODIFICATIONS IN THE REGULATIONS IN RESPONSE TO RECOMMENDATIONS BY THE OFFICE OF ADMINISTRATIVE LAW.
8. DIRECT THE COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO COMPLY WITH PROVSIONS OF THE GOVERNMENT CODE REGARDING ADOPTION OF THE REGULATIONS AND AMENDMENTS AND TO ENSURE THAT THE REGULATIONS BECOME EFFECTIVE.
9. DIRECT COMMISSION STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO IMPLEMENT THE REGULATION AT SUCH TIME AS THEY BECOME EFFECTIVE.